JUDGE JIM ROGERS
Hearing Date: May 23, 2008, 1:30 P.M.

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

LUMMI NATION, et al., Plaintiffs, v. STATE OF WASHINGTON, et al., Defendants,	No. 06-2-40103-4 SEA DEFENDANT-INTERVENOR WASHINGTON WATER UTILITIES COUNCIL'S REPLY TO STATE'S MEMORANDUM IN RESPONSE TO WWUC'S MOTION FOR SUMMARY JUDGMENT
JOAN BURLINGAME, et al. Plaintiffs, v. STATE OF WASHINGTON, et al., Defendants, and WASHINGTON WATER UTILITIES COUNCIL, et al., Intervenors.	

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TABLE OF CONTENTS

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TABLE OF AUTHORITIES

Cases

Statutes

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I. RELIEF REQUESTED AND SUMMARY OF ARGUMENT.

Defendant-Intervenor Washington Water Utilities Council ("WWUC") submits this reply to the State of Washington Defendants' Memorandum in Response to WWUC's Motion for Summary Judgment, dated March 21, 2008 ("State's Response"). WWUC joins the State in urging the Court to uphold the MWL as constitutional, and WWUC and the State essentially concur in all their arguments except for the subject addressed in the State's Response. However, WWUC strenuously opposes the State's interpretation of section 1(4) of the MWL, the definition of "municipal water supply purposes" in RCW 90.03.015(4).[1]

This Court should decline the State's invitation to rewrite the statute to add a requirement of "active compliance" to the definition of "municipal water supply purposes" in RCW 90.03.015(4). The municipal water supply purposes definition contains no such requirement. Elsewhere in the MWL and in water law statutes generally, when the Legislature wanted to require actual beneficial use, it knew how to do so – by using express wording, such as the words "actual beneficial use." The State's attempt to insert an "active compliance" requirement is not only contrary to the plain language of the definition, it would also undermine the municipal water supply relinquishment exemption, would lead to absurd consequences in the overall statutory context, and would be contrary to the very purpose behind the MWL.

Rather than adopting the State's interpretation based on a single word taken out of context, the Court should interpret the definitions based on the plain language of the statute, in context with other sections of the Water Code and the legislative purpose of the MWL, and without reference to the State's "active compliance" theory. The Court should

[1] The definition of "municipal water supplier" in RCW 90.03.015(3) is also implicated because it "means an entity that supplies water for municipal water supply purposes." Both definitional sections are reproduced in full in Appendix A.

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hold that water rights claimed for municipal water supply purposes are categorically exempt from relinquishment (statutory forfeiture under RCW 90.14.140-.180).

II. THIS COURT SHOULD REJECT THE STATE'S READING OF MWL SECTION 1(4), THE DEFINITION OF MUNICIPAL WATER SUPPLY PURPOSES.

A. The State's Invention of an "Active Compliance" Requirement Distorts the Statutory Definition.

The State would have this Court insert an "active compliance" requirement into the definition of "municipal water supply purposes" where no such requirement exists. The term "active compliance" is found nowhere in the Water Code. Ecology coined the term for the first time in POL-2030, an informal guidance document that has not been formally adopted in rulemaking or otherwise and as such has no legal force or effect.[2]

The State's "active compliance" interpretation is based solely on the language in the definition indicating that a right for municipal water supply purposes is "a beneficial use of water" meeting one of three criteria. The term "beneficial use of water" in the definition is a descriptive or introductory term, recognizing that "municipal water supply purposes" is a type of beneficial use.[3] Contrary to the State's argument, the descriptive term "beneficial use of water" does not impose any additional obligation on water rights users in order to satisfy the definition.

RCW 90.03.015 is titled "Definitions" and includes a number of definitions that are to be applied throughout the Water Code. *See* Appendix A. The list of defined terms includes the terms "municipal water supplier" and "municipal water supply purposes."

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[2] Even if formally promulgated, POL-2030 would be irrelevant here. An administrative agency cannot modify or amend a statute through its own regulation. *Rettkowski v. Dep't. of Ecology*, 122 Wn.2d 219, 227, 858 P.2d 232 (1993).

[3] The definition of "municipal water supply purposes" in RCW 90.03.015 is comparable to other statutes that identify beneficial uses of water. *See, e.g.*, RCW 90.14.031; RCW 90.54.020 (1); *see also* RCW 90.03.550 (providing that "[b]eneficial uses of water under a municipal water supply purposes water right" may include uses that benefit fish and wildlife, water quality, or other environmental values).

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RCW 90.03.015(3) and (4). These statutory provisions are, on their face, definitional only. Standing alone, they impose no legal duties, obligations, or requirements, and they confer no legal benefit. The imposition of such legal duties and obligations happens only in the context of other statutory provisions. For example, RCW 90.03.386(3) requires a "municipal water supplier" to implement water conservation measures, and RCW 90.14.140(2)(d) confers an absolute and categorical exemption from relinquishment for any water right "claimed for municipal water supply purposes under chapter 90.03 RCW."

In this case, the Plaintiffs are not challenging the constitutionality of the definitions standing alone. Rather, the Plaintiffs challenge the application of these definitions in the relinquishment context. The State's interpretation of Section 1(4) to require "active compliance" in order to "qualify" as a right for municipal water supply purposes that is exempt from relinquishment distorts the statutory wording and misconstrues the role of the definitions in the statutory scheme. *See* State's Response at 3.

The State would have this Court transform these definitional sections into substantive legal requirements. However, when the words in a statute are clear and unequivocal, courts are required "to assume the Legislature meant exactly what it said and apply the statute as written." *In re Recall of Pearsall-Stipek,* 141 Wn.2d 756, 767, 10 P.3d 1034 (2000). The courts will not add words or clauses to an unambiguous statute when the Legislature has not included the language. *State v. Delgado*, 148 Wn.2d 723, 727, 63 P.3d 792 (2003). This Court should reject the State's attempt to alter the definition of "municipal water supply purposes" to add a substantive requirement that water be actually used in order to fall within the definition. Rather, this Court should hold that, as a definition, RCW 90.03.015(4) plainly describes a *category* of water use – a category which embraces past, present, and prospective uses.

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B. Where the Legislature Wanted to Require "Actual Beneficial Use" It Did So.

The State is correct that "beneficial use" is a term of art in Washington water law. State's Response at 4. The State is also correct that actual beneficial use of water is required for perfection of a water right. It does not follow, however, that every reference to the term "beneficial use" in state law carries an implied requirement of actual water use.[4] The Legislature has used the term "beneficial use" many times, and when actual water usage is intended the Legislature has used express language. On the other hand, the Legislature has repeatedly used the term simply to list, identify, or describe types of water uses that are permissible uses of the state's water resources. Here, the State erroneously asserts that the Legislature meant to require "actual beneficial use" in the "municipal water supply purposes" definition, even though it included no such language.

1. In the MWL, the Legislature expressly provided for "actual beneficial use" when it wanted to impose such a requirement.

For example, in Section 6(4) of the MWL, enacted at the same time as the definitions, the Legislature explicitly required "actual beneficial use" before issuing new water right certificates:

> After September 9, 2003, the department must issue a new certificate under subsection (1) of this section for a water right represented by a water right

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[4] The Supreme Court has explained as follows:

> "Beneficial use" is a term of art in water law, and encompasses two principal elements of a water right. **First, it refers to the purposes, or type of activities, for which water may be used** . . . . Second, beneficial use determines the measure of a water right. The owner of a water right is entitled to the amount of water necessary for the purpose to which it has been put, provided that purpose constitutes a beneficial use.

Dep't. of Ecology v. Grimes, 121 Wn.2d 459, 468, 852 P.2d 1044 (1993) (emphasis added). The State's interpretation of the "municipal water supply purposes" definition erroneously conflates these two elements. Contrary to the State's interpretation, RCW 90.03.015(4) utilizes the first concept of "beneficial use" identified by the Supreme Court: a list of "the purposes, or type of activities, for which water **may be used**." *Id.* (emphasis added).

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> permit only for the perfected portion of a water right as demonstrated through **actual beneficial use** of water.

RCW 90.03.330(4) (emphasis added). This statutory provision shows that the State's arguments regarding case law construing beneficial use requirements are misplaced with respect to the definition at issue. *See* State's Response at 4 (unnecessarily citing *Dep't. of Ecology v. Theodoratus*, 135 Wn.2d 582, 957 P.2d 1241 (1998) and *Dep't. of Ecology v. Acquavella*, 131 Wn.2d 746, 935 P.2d 595 (1997). That is, it would be superfluous for the Legislature to require **actual** beneficial use in RCW 90.03.330(4) if the term "beneficial use" always means "actual beneficial use" as the State contends.

Similarly, in Section 6(3) of the MWL, the Legislature drew an explicit distinction between "actual beneficial use" and system capacity:

> This subsection applies to the water right represented by a water right certificate issued prior to September 9, 2003, for municipal water supply purposes as defined in RCW 90.03.015 where the certificate was issued based on an administrative policy for issuing such certificates once works for diverting or withdrawing and distributing water for municipal supply purposes were constructed rather than after the water had been placed to **actual beneficial use**. Such a water right is a right in good standing.

RCW 90.03.330(3) (emphasis added).

The State's claim that "beneficial use" is a term of art that always means "actual use" of water is belied by the Legislature's use of the phrase "actual beneficial use" in Sections 6(3) and 6(4) of the MWL, which were enacted at the same time as the definitions. The use of different statutory language in comparable statutory provisions indicates a different legislative intent. *See United Parcel Service, Inc. v. Revenue*, 102 Wn.2d 355, 362, 687 P.2d 186 (1984). Where different words are used in the same statute, it is presumed that a different meaning was intended to attach to each word.

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Simpson Inv. Co. v. Dep't of Revenue, 141 Wn.2d 139, 160, 3 P.3d 741 (2000). Statutes are to be interpreted so that no part is deemed superfluous. *Rettkowski*, 122 Wn.2d at 227.

In the MWL, where the Legislature intended to refer to "actual beneficial use" it did exactly that. The use of the term "beneficial use" in the definition of "municipal water supply purposes" indicates legislative intent to craft a descriptive definition of the types of activities which qualify as municipal – not to require "actual" use before a water right can be considered municipal under the Water Code.

2. In other water-related statutes that contain the "beneficial use" term, the Legislature used express language to mean actual water use.

The Legislature has frequently used the term "beneficial use" as a descriptive term relating to allowable uses of water resources where the context clearly indicates that the Legislature contemplated more than just present, actual water use. *See e.g.*, RCW 90.42.040(1) (trust water rights acquired by the State shall be held or authorized for use for "instream flows, irrigation, municipal, or other beneficial uses"); RCW 90.03.345 ("establishment of reservations of water for agriculture, hydroelectric energy, municipal, industrial, and other beneficial uses" constitute appropriations); RCW 90.03.030 (water may be conveyed by stream to a diversion point in a neighboring state consistent with "a permit to appropriate water for a beneficial use"); RCW 43.99E.010 (state's long-range development goals include "furnishing of an adequate supply of water for domestic, industrial, agricultural, municipal, fishery, recreational, and other beneficial uses"); RCW 90.54.020 (uses of water for a list of enumerated uses "and all other uses compatible with the enjoyment of the public waters of the state, are declared to be beneficial"); RCW 90.66.065(2)(c) (a family farm permit may be transferred to "any purpose of use that is a beneficial use of water"); RCW 90.03.290 (Ecology's investigation of a water right

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application includes duty to "find and determine to what beneficial use or uses" water can be applied).

In contrast, when the Legislature intends to require actual water use, the Legislature uses the term "beneficial use" in conjunction with express wording. *See e.g.*, RCW 90.03.320 (department shall consider various factors in fixing the time for "**application** of the water to the beneficial use prescribed in the permit"); RCW 90.03.395 (restricting transfer of surface water right that "has not been **applied** to a beneficial use"); RCW 90.14.043 (petition to hearings board for certification of claim must show that "Waters of the state have been **applied** to beneficial use continuously"); RCW 90.14.010 (purpose of claim registration act includes causing "return to the state of any water rights which are no longer exercised by **putting** said waters to beneficial use"); RCW 90.66.065(3) (prohibiting transfer of family farm water right "that has not been **perfected** through beneficial use before the transfer").[5]

In short, the State's interpretation is contrary to the plain meaning of the statutory provision. The definition section at issue does not contain the words "active compliance" or "actual beneficial use." It is the State – not WWUC – that would ignore the plain meaning of the statute.

C. The State's "Active Compliance" Theory Also Violates the Plain Meaning Rule by Frustrating the Legislative Purpose Underlying the MWL.

The State appears to acknowledge that its "active compliance" interpretation is contrary to the overall purpose of the statute, but argues that the plain meaning of the statute compels it. *See* State's Response at 4. WWUC agrees with the State that the plain meaning rule applies here, but the State incorrectly applies the plain meaning rule to reach a strained and internally contradictory result.

[5] Emphasis added to all statutes in string citation.

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In determining the meaning of words in a statutory provision, the words must be placed in the broader statutory context to ascertain legislative intent. *Dep't. of Ecology v. Campbell & Gwinn*, 146 Wn.2d 1, 10-12, 43 P.3d 4 (2002) (water rights case in which Supreme Court clarified Washington's approach to the plain meaning rule). "This is done by considering the statute as a whole, giving effect to all that the legislature has said, and by using related statutes to help identify the legislative intent embodied in the provision in question." *In Re Parentage of J.M.K. and D.R.K.*, 155 Wn.2d 374, 387, 119 P.3d 840 (2005) (citing *Campbell & Gwinn*). Strained, unlikely, or absurd consequences are to be avoided. *Id.*; *see Bauer v. State Employment Sec. Dep't.*, 126 Wn.App. 468, 473, 108 P.3d 1240 (2005).

The State's reading of the "municipal water supply purposes" definition fails to consider this definition in the broader context in which it must be applied. The State's interpretation conflicts with the entire purpose of the MWL. As stated in the act's title, and manifested by various provisions, the MWL was intended to provide certainty to municipal water suppliers in exchange for increased water conservation and efficiency obligations. The State's interpretation would actually create *more* uncertainty for municipal water suppliers. Under the State's interpretation, rights for municipal water supply purposes that are not "actively used" would no longer be considered rights for "municipal water supply purposes" – although it is unclear exactly what the purpose of such rights might be. It is common for utilities to hold water rights that are not actively used for periods of time. Declaration of Nancy Davidson, ¶¶ 13-18. It is part of how utilities responsibly manage their systems. *Id.* at ¶ 14 (providing several examples why water utilities would not use a water right for a period of time). Such rights, previously protected from relinquishment under the "municipal" exemption, could now be in

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jeopardy. The consequences of the State's "active compliance" interpretation are thus far-reaching and of great concern to public water systems, large and small, east and west.

The State's "active compliance" requirement would also be inconsistent with the MWL's emphasis on water conservation and efficiency. Even when not necessary to meet customer demand, municipal water utilities would be forced to exercise each and every water right, including those reserved for future growth, in order to avoid the risk of relinquishment. This is clearly contrary to the MWL's conservation and efficiency goals. The Legislature did not intend these absurd results to follow from the MWL, which has increased water rights "certainty" as a key purpose.[6]

D. The State's "Active Compliance" Theory Would Vitiate the Municipal Exemption from Relinquishment.

As discussed in WWUC's Motion for Summary Judgment, since its original adoption in 1967, the relinquishment statute has included a blanket exemption from relinquishment for water rights "claimed for municipal water supply purposes under

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[6] The State cites the Pollution Control Hearings Board's summary judgment ruling in *Cornelius v. Ecology*, PCHB No. 06-099, as "upholding" the State's interpretation of the statute, asserted in *Cornelius* contemporaneously with its arguments in this case. In *Cornelius*, the PCHB used the language quoted by the State (State's Response at 4) in addressing the issue of whether Washington State University's water rights are presently "rights for municipal water supply purposes," even though some of those rights were originally issued for "community domestic supply" and not explicitly for "municipal" supply. Following the language quoted in the State's Response, the PCHB explained:

> Thus, we must examine WSU's actual use of water under each right, and whether each right is presently being put to beneficial use for municipal purposes. Application of this test to the rights at issue, used in conjunction with the application of the statutory definitions, leads to the conclusion that each of the rights at issue is for a municipal water supply purpose.

PCHB No. 06-099, Order on Summary Judgment (As Amended on Reconsideration) at 11-12 (January 18, 2008). The PCHB then addressed a separate issue of whether certain of the University's rights had been relinquished due to past non-use, ruling that WSU's water rights are categorically exempt from relinquishment because each "qualifies as a right for municipal water supply purposes and, therefore, is exempt from relinquishment by operation of law." *Id.* at 33-34. Thus, the PCHB's approach to relinquishment in *Cornelius* is not consistent with the State's interpretation of the relevant statutes. Even if it were, PCHB decisions do not constitute precedent binding on the courts. *R.D. Merrill Co. v. PCHB*, 137 Wn.2d 118, 142 n.9, 969 P.2d 458 (1999) ("As the Department acknowledges, the PCHB decisions do not provide precedent for the court to follow").

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chapter 90.03 RCW." RCW 90.14.140(2)(d). This exemption was designed to create flexibility and allow public water systems to plan for future growth and to react to changing water service demands and other conditions over time, without fear of losing all or portions of their water rights. Without this shelter from "use it or lose it," public water systems' duty to provide safe and reliable water supply will be undermined. Davidson Decl., ¶ 15.

The State's position vitiates the exemption from relinquishment for water rights claimed for municipal water supply purposes. Relinquishment does not arise – and an exemption from relinquishment is unnecessary – unless a water right has not been used for a period of five or more consecutive years. RCW 90.14.160, .170, .180; *see also* RCW 90.14.140. However, according to the State's interpretation, the relinquishment exemption set forth in RCW 90.014.140(2)(d) could be asserted only when the right has been actively and beneficially used for municipal water supply purposes. In other words, under the State's interpretation, the only water rights that "qualify" for the exemption are those that do not need it. Thus, the State's interpretation of the definition of "municipal water supply purposes" would effectively repeal the exemption from relinquishment in RCW 90.14.140(2)(d) for a "municipal water supply" right that goes unused for five or more years.[7] This result cannot have been intended by the Legislature, and the Court should therefore reject the State's proposed "active compliance" interpretation.[8]

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[7] As a matter of statutory construction, repeal by implication is not favored. *Paulson v. County of Pierce*, 99 Wn.2d 645, 649-50, 664 P.2d 1202 (1983). Statutes must be read in their entirety, and must be construed so that all language is given effect, with no portion rendered meaningless or superfluous. *State v. Keller,* 143 Wn.2d 267, 277, 19 P.3d 1030 (2001); *Hayes v. Yount,* 87 Wn.2d 280, 290, 552 P.2d 1038 (1976).

[8] Legislative history documents confirm that the Legislature understood the municipal relinquishment exception to apply categorically. *See* Declaration of Bill Clarke, Ex. B at p. 2 (fiscal note memorandum states that the bill "protects those rights from relinquishment ('use it or lose it')"), attached to WWUC's Reply to Plaintiffs' Responses. The legislative history is devoid of any mention of the State's proposed "active compliance" requirement.

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E. The "Active Compliance" Interpretation Is Illogical in the Context of the MWL and the Water Code Overall.

The State's "active compliance" interpretation of the definition of "municipal water supply purposes" in Section 1(4) of the MWL makes no sense in the context of the MWL itself – a statute intended in large measure to address the uncertainty and ambiguity surrounding inchoate, unperfected municipal water rights.

For example, Section 6(3) of the MWL applies explicitly to water rights "for municipal water supply purposes as defined in RCW 90.03.015" that are represented by "pumps and pipes" certificates. RCW 90.03.330(3). Applying the State's interpretation, Section 6(3) would cover only "actively used" water rights, and would not cover all "pumps and pipes" certificates.

The State's interpretation is equally illogical when applied to Section 6(2) of the MWL. Section 6(2) addresses Ecology's authority to "revoke or diminish a certificate for a surface or ground water right for municipal water supply purposes as defined in RCW 90.03.015" in specified circumstances. Under the State's interpretation of "municipal water supply purposes as defined in RCW 90.03.015," Section 6(2) would address only those municipal water right certificates representing actual beneficial use, and would not cover all "pumps and pipes" certificates despite the fact that providing certainty for such rights was a central focus of the legislation.

These restrictive applications of the MWL cannot have been intended by the Legislature. However, the consequences of the State's "active compliance" interpretation would be even more illogical in the context of new water right applications.

Since 1917, the Water Code has contemplated the issuance of water rights for municipal water supply. *See, e.g.*, RCW 90.03.260. Under the State's "active compliance" interpretation, a new water right could never be issued for "municipal water

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supply purposes" because such a use would not be "actual" at the time of permit issuance. In other words, a municipal water supplier could not "actively comply" with the definition of "municipal water supply purposes" before it had constructed facilities, developed the resource, and supplied water under its water right permit – which permit, by definition, could never be issued for "municipal water supply purposes" to occur in the future. This absurd result is contrary to the statutes regarding submission and consideration of applications for new water rights for beneficial uses, including municipal water supply purposes. See RCW 90.03.250 -.290. Under the State's interpretation, it is unclear how the Department of Ecology would administer new water right permits for municipal water suppliers consistent with the Water Code. In any event, this absurd result cannot have been intended by the Legislature.

F. The State's "Ghost Town" Policy Rationale Is a Red Herring.

The State argues that its "active compliance" requirement is necessary to prevent the MWL's "resurrection" of water rights once used by old "ghost towns" that had gone unused for lengthy time periods. State's Response at 3. The State's argument is misplaced. Even in the absence of the State's "active compliance" requirement, the MWL would not cause the revival of such unused rights.

Plaintiffs' entire challenge to the definitions stems from the relinquishment exemption. In focusing exclusively on the definition of "municipal water supply purposes," both the Plaintiffs and the State ignore the language of the exemption itself. The proper focus of the "municipal water supply" relinquishment exemption inquiry should be on the words "claimed for" in RCW 90.14.140(2)(d). Focusing on the "claimed for" language avoids the specter of "ghost town" rights that were not "claimed" for municipal purposes since 1967. Although no particular water right is before the court, a

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long-unused "ghost town" water right would most likely not have been "claimed" for municipal water supply purposes after 1967.

Moreover, the common law doctrine of abandonment continues to exist as part of the state's water law. *Public Utility Dist. No. 1 of Pend Oreille County v. Dep't. of Ecology,* 146 Wn.2d 778, 798-99, 51 P.3d 744 (2002). The state Supreme Court has specifically held that municipal water rights may be abandoned through years of nonuse where the intent to retain the water right cannot be proved. *Okanogan Wilderness League v. Twisp,* 133 Wn.2d 769, 784, 947 P.2d 732 (1997). In *Twisp*, a town's water right that had not been used for approximately 50 years was held abandoned where the town's conduct did not disprove intent to abandon. A lengthy period of nonuse will give rise to a presumption of intent to abandon a water right, and the municipal exemption from relinquishment in RCW 90.14.140(2)(d) will not protect a municipal water right from abandonment. *Id.* Thus, the abandonment doctrine would likely prevent the revival of any long-unused "ghost town" water right. An across-the-board imposition of an "active compliance" requirement in order to "qualify" for the relinquishment exemption is thus unnecessary to accomplish the State's asserted objective of preventing the revival of hypothetical "ghost town" water rights.

III. CONCLUSION.

For the foregoing reasons and for the reasons set forth in its Motion for Summary Judgment, WWUC urges this Court to dismiss the Plaintiffs' claims that sections 1(3) and 1(4) of the MWL violate the Constitution, and to reject the State's interpretation of the definition of "municipal water supply purposes" in Section 1(4).

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DATED this 24th day of April, 2008.

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Appendix A

RCW 90.03.015
Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Director" means the director of ecology.

(3) "Municipal water supplier" means an entity that supplies water for municipal water supply purposes.

(4) "Municipal water supply purposes" means a beneficial use of water: (a) For residential purposes through fifteen or more residential service connections or for providing residential use of water for a nonresidential population that is, on average, at least twenty-five people for at least sixty days a year; (b) for governmental or governmental proprietary purposes by a city, town, public utility district, county, sewer district, or water district; or (c) indirectly for the purposes in (a) or (b) of this subsection through the delivery of treated or raw water to a public water system for such use. If water is beneficially used under a water right for the purposes listed in (a), (b), or (c) of this subsection, any other beneficial use of water under the right generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes. If a governmental entity holds a water right that is for the purposes listed in (a), (b), or (c) of this subsection, its use of water or its delivery of water for any other beneficial use generally associated with the use of water within a municipality is also for "municipal water supply purposes," including, but not limited to, beneficial use for commercial, industrial, irrigation of parks and open spaces, institutional, landscaping, fire flow, water system maintenance and repair, or related purposes.

(5) "Person" means any firm, association, water users' association, corporation, irrigation district, or municipal corporation, as well as an individual.

[2003 1st sp.s. c 5 § 1; 1987 c 109 § 65.]